

Remarks

Species Election

In view of the Office Communication dated June 17, 2003, Applicants have reconsidered the previous provisional election of Species II, Figs. 1J-1K for prosecution in this application. With the present Supplemental Response to Restriction Requirement, Applicants withdraw the previous species election. Applicants instead hereby provisionally elect species XVII referring to Fig. 16 for prosecution in this application. Claims 1-23 have been canceled and new claims 24-38 have been presented. New claims 24-38 are believed to read on the newly elected species of Fig. 16. No new matter is believed to have been added.

Cancellation of Claims 1-23

Originally filed claims 1-23 included independent claims 1 and 22 as follows:

1. An implant comprising a body having two outer annular members and at least one inner annular member, wherein at least one of the annular members is formed from bone and the annular members are coupled together to define a central chamber.
22. An implant comprising a body having at least two ring-shaped members formed from bone that are coupled together to define a central chamber.

Upon review, Applicants believe that originally filed claims 1-23 are directed to subject matter that is similar to the subject matter sought to be covered by the claims in co-pending application no. 09/814,114 ("the '114 application").¹ For example, the presently pending independent claims in the '114 application include the following independent claims:

1. An implant comprising a body having an inner sheath and at least one outer sheath, each sheath being formed from a different bone and being formed with an exterior surface and an opening defining an interior surface, wherein the exterior surface of each outer sheath contacts the interior surface of no more than one other outer sheath.
21. An implant comprising a body formed from a cross-section of a core and a plurality of sheaths with each sheath having an inner surface and an outer surface, wherein at least two sheaths are formed from different bones, the outer surface of a first sheath has about the same contour as the inner surface of a second sheath so that the first and second sheaths mate together, and the cross-section includes at least a portion of each sheath and core.

¹ A copy of U.S. Patent Application Publication No. US 2001/0039456 A1, corresponding to the '114 application, was filed in a Third Information Disclosure Statement dated April 15, 2003.

OFFICIAL

40. An implant comprising a plurality of sheaths each defining a hole, and a core fit in an innermost of the sheaths, wherein the sheaths are formed from at least two different bones selected from a femur, tibia, humerus, fibula, ulna, and radius.

41. An implant comprising at least two layers of bone components coupled to each other, the components together defining at least one securing region, and at least one insertable securing element adapted for placement in the at least one securing region, wherein the implant is formed from at least two different bones.

Thus, Applicants have cancelled originally filed claims 1-23 in the present application and may, for example, present those claims for consideration during the prosecution of the '114 application.² *The '114 application is being examined by a different examiner from the present application.* Should the Examiner of the present application require any further information concerning this matter, a personal or telephonic interview is respectfully requested to discuss any remaining issues and accelerate the prosecution of the present application.

Conclusion

A fee for an extension of time is believed to be due for this submission and a petition for extension of time is submitted concurrently herewith. Should any additional fees be required, please charge such fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Date: September 17, 2003

Respectfully Submitted,

Seth A. Watkins
FOR: Brian M. Rothery

For: Seth A. Watkins Reg. No. 47,169
Brian M. Rothery Reg. No. 35,340
PENNIE & EDMONDS LLP
1667 K Street, N.W.
Washington, D.C. 20006
(202) 496-4400

Enclosures

² Applicants note that at the present time, the '114 application stands at final rejection. Applicants thus may present now cancelled claims 1-23 of the present application in a Request for Continued Examination of the '114 application.